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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of )

Alex Azhayev, et al. )

Appln. No. 09/995,785 )

Filing Date: November 29, 2001 )

For: UNIVERSAL SUPPORTS FOR  
OLIGONUCLEOTIDE SYNTHESIS )

Group Art Unit: 1639

Examiner: M.G. Baker

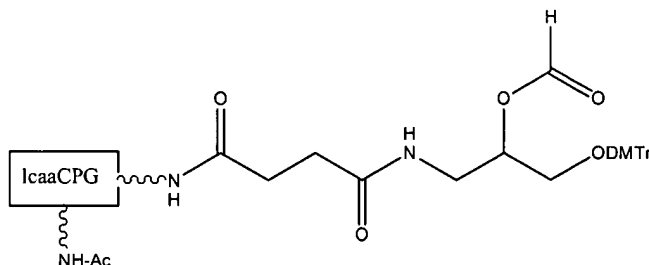
Docket No. 005416.00004

Confirmation No. 9129

#8  
Olup  
2-11-03RESPONSE TO RESTRICTION REQUIREMENTCommissioner of Patents and Trademarks  
Washington, D.C. 20231

Sir:

In response to the Restriction Requirement dated January 13, 2003, Applicants hereby elect, with traverse, Group I (claims 1-44 and 45-53 in part, drawn to a support/article that has the formula depicted in claim 1 (*i.e.*, X = (=O) and Y = (=NH) in the formula of claim 45). As to the election of species requirement, Applicants hereby elect the species illustrated at the top of page 11 in the specification, as also shown below:



Applicants believe that at least the following claims read on this elected species: 1-4, 19, 21-24, 39, 45, 46, and 49. Claim 45 is believed to be a generic claim.

Applicants respectfully traverse this restriction requirement, particularly the restriction between Group I and Groups II-VI, wherein each Group is constructed so as to include claims 45-53, *in part*. Applicants respectfully submit that claims 45-53 should be treated as *Markush*-type claims and examination should proceed in the manner described in the *Manual of Patent Examining Procedure* § 803.02. As described in that portion of the *M.P.E.P.*:

In applications containing [*Markush*-type claims], the examiner may require a provisional election of a single species prior to examination on the merits. The provisional election will be given effect in the event that the *Markush*-type claim should be found not allowable. Following election, the *Markush*-type claim will be examined fully with respect to the elected species and further to the extent necessary to determine patentability. If the *Markush*-type claim is not allowable over the prior art, examination will be limited to the *Markush*-type claim and claims to the elected species, with claims drawn to species patentably distinct from the elected species held withdrawn from further consideration.

\* \* \*

On the other hand, should no prior art be found that anticipates or renders obvious the elected species, the search of the *Markush*-type claim will be extended. If prior art is then found that anticipates or renders obvious the *Markush*-type claim with respect to a *non-elected species*, the *Markush*-type claim shall be rejected and claims to the nonelected species held withdrawn from further consideration.

The Restriction Requirement does not indicate the manner in which examination will proceed with respect to Groups I-VI and claims 45-53. To the extent that the Examiner seeks to proceed with examination of these claims in a manner different from the procedure described in *M.P.E.P.* § 803.02, Applicants respectfully traverse the restriction requirement.

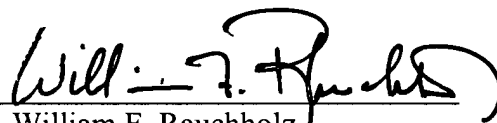
Applicants believe that this Response is fully responsive to the Restriction Requirement dated January 13, 2003, and examination on the merits is awaited.

If any fees are due in connection with this Response, such as fees under 37 C.F.R. §§ 1.16 or 1.17, the necessary fees may be charged to the Deposit Account of the undersigned, Deposit Account No. 19-0733.

Respectfully submitted,

BANNER & WITCOFF, LTD.

Date: February 5, 2003

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